

**Town of Amherst
Zoning Board of Appeals - Special Permit**

DECISION

Applicant: Carol S. Albano, 51 Spaulding Street, Amherst, MA

Date application filed with the Town Clerk: August 1, 2006

Nature of request: A Special Permit to convert a single family to a 3-family dwelling under Section 3.3241 of the Zoning Bylaw, and to ask for a waiver from Zoning Board of Appeals requirements that plans be drawn by a registered professional

Address: 51 Spaulding Street (Map 14B, Parcel 110, R-G Zoning District)

Legal notice: Published on August 30 and September 6, 2006 in the Daily Hampshire Gazette and sent to abutters on August 31, 2006

Board members: Barbara Ford, Hilda Greenbaum and Russ Frank (9/14/07; 12/14/07; 3/8/07)
Barbara Ford, Ted Rising and Russ Frank (4/9/07)

Submissions: The petitioner submitted the following:

- A set of hand-drawn plans with the application showing the proposed addition to the house and the reconfiguration of the existing rooms in order to create 3 apartments;
- A management plan (undated);
- A second set of hand drawn plans, received 9/11/06;
- A revised management plan (undated) for two rather than three dwelling units;
- A sample lease agreement;
- A revised set of floor plans, site plans and elevations, dated February 28, 2007, prepared by Kraus-Fitch Architects, Inc.;
- An email dated April 9, 2007, withdrawing the Special Permit application.

Town staff submitted:

- A memo from the zoning assistant dated 9/8/06 concerning zoning and dimensional requirements;
- A Request for Determination, plus a Determination of Applicability and special conditions, from the Conservation Commission, dated 9/6/06.

Site Visit: September 11, 2006

The Board met with Ms. Albano at the site. They observed the following:

- A large colonial house on a quiet, dead-end street;
- The wetlands in the back yard, and a stream crossing the street to the north of the house;
- The parking area staked out for 4 cars to the south and behind the house, and spaces for 2 more cars in front and to the north of the house;
- The back yard of the property and location of the addition on the south-east section of the house;
- The location of the proposed downstairs apartment;

- The location of the proposed deck for the original section of the house;
- The basement storage under the original section of the house;
- The interior of the house that is proposed for the two additional housing units.

Public Hearing: September 14, 2006

Carol Albano represented herself at the hearing. She stated that she has lived at 51 Spaulding Street for 21 years, and now wishes to make some changes to the house. She stated the following:

- She has a large single-family house, and wishes to convert the back section into two apartments;
- She has changed her application to include 2 additional dwelling units under Section 3.3241 of the Zoning Bylaw rather than 1 additional unit plus a supplemental apartment;
- A 8' x 32' addition is proposed for the south side of the "L" in the back of the house;
- The property is in the R-G zoning district and meets all the dimensional requirements in terms of setbacks and coverage;
- The lot size is 21,236 square feet; the proposed coverage is 1,924 square feet, and the maximum lot coverage including driveway and parking is less than 40%;
- She will continue to reside on the property; she supports the owner-occupied status of most of the properties along the street;
- The proposed apartments will both have one-bedroom plus a study;
- She's had experience as a landlord in many communities, and wants tenants who will be quiet, in keeping with the character with the neighborhood;
- She plans to have the first floor unit be built with wider doorways and halls, so that it can become handicapped accessible if needed;
- She designed the parking plan, increasing the parking from 3 to 6 spaces; she is requesting that 2 spaces with an extra curb cut be added in the front yard, just north of the house, plus 4 spaces in the back, east of the house;
- She has spoken to the Town Engineer, Jason Skeels, and has permission to have the second curb cut for the 2 extra spaces;
- She noted that this proposed configuration may be a concern to the neighbors, so she has an alternate plan – two parking spaces parallel along the driveway and 4 in the back;
- The driveway is already 16-foot wide in part, and it doesn't need to be wider than 16 feet;
- Ms. Albano met with the Conservation Commission concerning the wetlands in the back of her property. Only the end of the proposed parking area was less than 50 feet from the wetlands boundary (45 feet.) The Commission made a finding of no impact on the wetlands regarding the house addition and the enlarged parking area;
- The Conservation Commission had 6 conditions as a result of their review, such as installation of erosion control material prior to construction, pervious material to be used for the parking area behind the house and any tree removal to be restricted to the upland area;
- The property is connected to Town water and sewer, and there should be no problem with the additional hookups to the water/sewer lines;
- There are already many multi-family dwellings along the street, and the proposed conversion is compatible with what exists already. She has talked to the neighbors, and noted that they are concerned that the proposal would change the family-like character of the neighborhood, but she's confident that this will not happen;
- The 8 x 32 foot addition in the back will not be visible from Spaulding Street, and should have little impact on the neighborhood;
- The management plan for the proposal states that she will be responsible for snow plowing and removal of trash and recycling.

Ms. Ford asked if the petitioner wished to keep both parking plans as options. Ms. Albano responded that she would like to keep both plans open, but does prefer to have parallel parking along the driveway.

The Board agreed that they all had difficulty following her hand-drawn floor plans and asked for an explanation of what the plans are showing. Ms. Albano gave the following information:

- The addition will be 8' x 32' long on the inside of the "L" in the back of the house;
- The façade of the addition will match that of the house;
- What is called the second floor for the "L" is at street level in the front of the house;
- A deck is proposed for the back of the original house, plus a roof for the existing outside stairs exiting the sunroom on the south side of the house;
- Stairs will be added on the north and south sides of the "L" for the second-floor apartment;
- There will be two means of egress for the first-floor apartment that will be located under the stairways to the second floor apartment;
- The front of the building will remain the same on the exterior and she will live there.

Ms. Greenbaum asked where the trash and recycling would be located. The petitioner responded that it would be under the existing deck along the driveway where it is currently located. The access is currently open in the front facing the street, but she plans to construct a covering for the front side as well as one for under the deck floor. Ms. Greenbaum stated that the recycling should be located where it won't get wet, and the garbage should be located where animals won't get at it, such as in a shed.

The Building Commissioner asked if the current deck is a means of egress. If so, trash containers cannot be stored underneath it.

Ms. Greenbaum said that the petitioner needs to submit professionally drawn site plans so the Board could determine whether the parking area should be smaller. In addition, elevations of the existing and proposed structures are needed to show what the exterior of the house will look like with the proposed addition.

The Board inquired about storage space. Ms. Albano said that the plans show storage in the back of the house on the ground floor for one apartment. Also there is storage available in the basement of the house (not shown in the submitted plans) and under the deck for the second apartment.

The Board Chair asked for comments from the public. Seven residents of Spaulding Street spoke and/or wrote letters regarding their concerns about the proposal.

Mary Carlson, 34 Spaulding Street, spoke and submitted a two-page letter. Her concerns focused on the fact that there are no 3-family homes on the street, problems of parking in the driveway, drainage from the proposed enlarged driveway as it relates to abutters, snow removal and the constant movement of wetlands in the area.

David Carlson, 34 Spaulding Street, also spoke and submitted a letter which had three points. First, the applicant cannot have a "supplemental apartment" under Section 5.011 of the Zoning Bylaw if she is requesting two additional units. (Ms. Albano corrected this earlier.) Secondly, according to State law, she must have plans drawn by a registered architect for structures containing more than 30,000 cubic feet.

Thirdly, three dwelling units is too intense a use for such a small lot, given the wetlands and lack of passive recreation space. Thirdly, if the Board does grant a Special Permit, it should only be for two units, and the one unit should be owner occupied.

Rebecca Guay and Matthew Mitchell, 45 Spaulding Street, wrote a letter stating that they are opposed to having a three-family house in such close proximity to their home. They have had many problems with the three-family rental home at the corner of Spaulding and Main Street.

Liza and Myles Cunningham, 27 Spaulding Street, wrote a letter opposing the proposed 3-family dwelling. They fear that it would have an immediate and long-term negative impact on their quiet, family oriented neighborhood.

Jim Callahan, 21 Spaulding Street, stated that he shares the concerns of Mr. Carlson, and wants the Board to place conditions on a Special Permit that would limit the number of units and require owner occupancy.

Margaret Burggren, 67 Spaulding Street, an immediate abutter, said that she is in support of Ms. Albano's desires, and doesn't doubt her management ability. However, she is concerned about the impact of three dwelling units and the extra parking. Just one new apartment would be more agreeable to the abutters. Six-plus cars may be too intrusive in the neighborhood.

Mina Theis, 26 Spaulding Street, said that she was concerned because there should be better plans for snow removal and drainage with three proposed dwelling units.

The applicant responded that snow removal will not be a problem. She currently snow blows three properties now in the neighborhood and an enlarged driveway will not be difficult to manage. The Conservation Commission asked that the back parking area be covered with light gravel, which can be cleared with a snow blower. The driveway will remain as asphalt.

Ms. Ford noted that the type of tenants cannot always be controlled. The "study" that was marked on the plans can become a bedroom, so that there is a potential for four extra bedrooms. Limiting the number of people living in the extra units would be a better solution, such as no more than two people per unit.

It was noted that the main house will still retain 4 bedrooms plus a computer/bedroom even if the application is approved to convert the house into three dwelling units.

Ms. Ford noted that there are no recreational areas for the tenants. The applicant has proposed a deck for herself, but nothing for the tenants.

Ms. Ford made a motion to deny the request to waive professional plans for the proposal. Ms. Greenbaum seconded the motion, and the vote was unanimous to not waive the Board of Appeals requirement that the applicant submit professionally drawn plans.

The Board stated that the applicant needs professionally drawn floor and site plans with at least the following information: elevations, door and window openings, exterior lighting, landscape plans, a revised parking plan, a better recreational space for tenants, and a protected trash/recycling structure or location. The management plan will need revision as well.

Ms. Greenbaum asked the Board if they would entertain some flexibility for the parking plan, as per Section 7.91 of the Zoning Bylaw. Perhaps they could relax the required two parking places per dwelling unit, given the wetlands in the back of the property. It was agreed that this issue will be discussed later at a continuation of the hearing.

Ms. Greenbaum made a motion to continue the hearing to December 14, 2006, at 7:30 pm. Mr. Frank seconded the motion, and the vote was unanimous to continue the hearing to December 14, 2006.

Continued Public Hearing: December 14, 2006

The petitioner did not have professionally drawn plans ready for the Board, and asked that the hearing be continued to March 8, 2007 at 7:30 pm. The Board agreed to the continuation.

Continued Public Hearing: March 8, 2007

The Board discovered that one of the panel members had a potential conflict of interest. The Planning Department staff explained that it may be possible to resolve the conflict of interest by obtaining an exemption from the Select Board under M.G.L. Chapter 268A, Section 19 (b).

Ms. Ford MOVED to continue the public hearing to April 9, 2007, pending the resolution of the conflict of interest. Mr. Frank SECONDED the motion. The Board VOTED (2-0-0) to continue the public hearing (Ms. Greenbaum abstained).

Continued Public Hearing: April 9, 2007

Due the potential conflict of interest, Ms. Greenbaum submitted an email, dated April 7, 2007, resigning from the panel hearing this case. Ms. Albano submitted an email, dated April 9, 2007, requesting to withdraw her application for a Special Permit.

Mr. Frank MOVED to accept the withdrawal, without prejudice. Mr. Rising, who attended the hearing as a substitute for Ms. Greenbaum, SECONDED the motion. The Board VOTED unanimously to accept the withdrawal, without prejudice.

Ms. Albano had verbally requested a waiver of fees for a new application in conversation with Planning Department staff, given the circumstances of her withdrawal. Mr. Frank MOVED to waive the application fees for the new application. Mr. Rising SECONDED the motion. The Board VOTED unanimously to approve a waiver of the application fees for Ms. Albano's upcoming application.

Public Meeting – Zoning Board Decision

For all of the reasons stated above, the Board VOTED to approve the WITHDRAWAL WITHOUT PREJUDICE for a Special Permit to convert a single family to a 3-family dwelling under Section 3.3241 of the Zoning Bylaw, and to ask for a waiver from Zoning Board of Appeals requirements that plans be drawn by a registered professional, as filed by Carol S. Albano, for property located at 51 Spaulding Street (Map 14B, Parcel 110, R-G Zoning District)

BARBARA FORD

EDWARD RISING

RUSSELL FRANK

FILED THIS _____ day of _____, 2007 at _____,

in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2007.

NOTICE OF DECISION mailed this _____ day of _____, 2007
to the attached list of addresses by _____, for the Board.